

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

UNITED STATES OF AMERICA

v.

JOSE PEREZ

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) CR. No. 09-029-S
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ORDER

The Defendant Jose Perez ("Perez") moves for Reconsideration and For Further Evidentiary Hearing on the issue of whether Defendant signed the Consent to Search Form proffered by the Government at the Motion to Suppress hearing, held on September 8, 2009. In a written opinion issued after the hearing, the Court denied the Defendant's Motion to Suppress holding that no constitutional infraction was committed by the officers and Perez voluntarily consented to a search of his home. The Court further found Sergeant Zuena a credible witness and found that "Perez signed and initialed the consent to search form." Defendant now requests another hearing on this issue, and requests a subpoena pursuant to Fed. R. Crim. P. 17(c) for "all Consent to Search Forms executed by or in the presence of Detective Zuena in the year prior to his testimony before this Court on September 8, 2009."

The Court denies the Defendant's motion for reconsideration and for further hearing with little difficulty. Perez has offered no additional argument that has not already been considered by the Court. Counsel for Perez skillfully argued at the hearing that

Perez did not sign the Consent form, and in Perez's brief to the Court that the consent obtained by the officers was involuntary due to a coercive environment.

The fact that consent was freely given is amply supported by the record, which includes the consent form itself, Detective Zuenas's testimony, and Defendant's own statements, which were recorded at the police station. Further hearing on this issue is unnecessary and could not have any impact on the result. It is clear under the totality of circumstances that Perez voluntarily consented to a search of his home.

For the foregoing reasons, the Court denies the Defendant's Motion for Reconsideration and Further Evidentiary Hearing.

IT IS SO ORDERED.



William E. Smith
United States District Judge
Date:

11/13/09